IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1407 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT RAJYA VANRASHAK KARMACHARI MANDAL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1407 of 1999

MR MUKUL SINHA for Petitioner No. 1

MR N.D.GOHIL, AGP for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 17/09/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Mukul Sinha for petitioner and learned AGP Mr. N.D.Gohil appearing on

behalf of respondents.

2. The grievance of the petitioner Union is that their members were appointed on the post of Beat Guards at the lowest rung of the Forest Department for the security and protection of the forests and its flora and fauna. As per the recruitment rules of the Foresters, Beat Guards are eligible and entitled to be promoted as Foresters after continuous service of five years in the cadre of Beat Guards. This being the only avenue available for Beat Guards for advancement in their service career. According to the petitioner Union, as per the executive instructions of the Government notified on 14.12.1959 the Department Promotion Committee should meet every year and hold review meeting for preparing the select list of eligible employees for promotion to the higher post. Therefore, according to the petitioner, in view of the Apex Court decision, it is incumbent on the part of the Government to hold the Departmental Promotion Committee every year in order to fulfil the vacancy occurring every year in order that the Government servants get reasonable opportunity and chance of considered for promotion. According to the petitioners for the last more than 20 years no such Departmental Promotion Committee has reviewed the case of Beat Guards and hence no gradation list of the Beat Guards is prepared for promotion to the higher post of Foresters. Therefore, the representation has been made by the petitioner but it remained without any response from the respondents. The respondent has not filed any reply. However, while issuing rule, this Court has issued notice as to interim relief on 19.11.1999 and thereafter, on 16.1.2000, this Court has directed to the respondents that the appointments to the post of Foresters, as and when made, shall be made in strict compliance with the prevailing recruitment rules. That interim order is continued till today.

3. The respondent No.2-Chief Conservator of Forest wrote a letter to Solicitor on 22.3.2000 which is attached to the petition, relying upon the Government Resolution of Finance Department dated 9.9.1998. According to that Government Resolution, the power is with the Finance Department to grant promotion in favour of any employee. As per the said letter, Government has imposed the restriction upon granting the promotion because of the financial constraint and, as and when the necessity arise, according to the rules, promotion be granted by the department.

4. Learned AGP Mr. N.D.Gohil has also relied upon

the letter dated 22.3.2000 of respondent No.2. I have considered the submissions made by Mr. Mukul Sinha and learned AGP Mr. N.D.Gohil. The question is that since more than 20 years, the Beat Guards those who are working in Forest Department they remained without any promotion and the policy which has been decided by the State Government in pursuance to the Government Resolution of Finance Department dated 9.9.1998, promotion has not been given by the department. However, more than 5 years have passed from the date of the said Government Resolution dated 9.9.1998. Therefore, in light of this fact, it is directed to the respondent-Forest Department to consider the case of the members of the petitioner Union those who have completed more than 5 years continuous service as Beat Guards, for promotion to the post of Foresters on the basis of prevailing existing recruitment rules and to pass appropriate orders according to the rules within a period of three months from the date of receiving the copy of this order.

5. In view of the above observations and directions, present petition is disposed of. Rule is made absolute according to the directions aforesaid. However, in case of any difficulty, it is open for the petitioner to revive the present petition by filing merely a note in the registry of this Court.

(H.K.Rathod,J)

Jayanti*